

REMARKS

Claims 1-2 and 5-6 were under examination. Claim 1 is amended and new claims 11-16 are added herewith. Support for the amendment to claim 1 is replete in the specification. See, e.g., paragraphs [0011], [0014] and [0051]. Support for the new claims is replete in the specification and is found in originally filed claims 7 and 8.

Claims 1 and 2 were rejected as allegedly anticipated by U.S. patent no. 5,484,799 (Hochlowski et al.). Claims 1, 2, 5 and 6 were rejected as allegedly anticipated by U.S. patent no. 5,589,485 (Hochlowski et al.). Neither of the references cited by the Office suggested that migrastatin can be produced by *S. platensis* as taught by the present inventors. Notwithstanding the absence of any teaching or suggestion of migrastatin by the Hochlowski et al. patents, the Office appears to assert that these patents *inherently* anticipated the present method. Applicants respectfully submit the Office has not established the elements of anticipation by inherency. However, the rejection is moot in view of the amendment to claim 1. Neither of the cited references contemplated the production of migrastatin by *S. platensis*, and neither suggested fermenting *Streptomyces platensis* in a medium under conditions such that migrastatin is produced and purifying migrastatin from the medium.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **03-1952** referencing docket no. 300622005900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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